

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

KIMBERLY ZERMENO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-15-1016-D
	)	
CAROLYN COLVIN,	)	
ACTING COMMISSIONER OF	)	
SOCIAL SECURITY,	)	
	)	
Defendant.	)	

**ORDER**

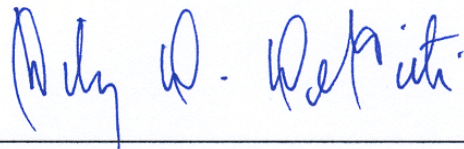
On June 20, 2016, the Court remanded this matter to the Commissioner for additional administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g) [Doc. No. 31]. Judgment was entered in favor of Plaintiff and against the Commissioner that same day [Doc. No. 32]. On October 26, 2016, Plaintiff filed a Stipulated Motion for Attorney’s Fees under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(a) and (d) [Doc. No. 33], wherein the parties stipulated to an award of \$5,135.50.

Therefore, the Court hereby grants Plaintiff’s motion for attorney fees. Plaintiff is awarded fees in the amount of \$5,135.50, which payment shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff’s attorney’s right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1).

In accordance with decisions from the United States Supreme Court and Tenth Circuit Court of Appeals, the award of attorney fees must be made payable to Plaintiff as the prevailing party. *See Astrue v. Ratliff*, 560 U.S. 586, 595-98 (2010); *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007), *cert. denied*, 129 S. Ct. 486 (2008); *Brown v. Astrue*, 271 F. App'x 741, 743-44 (10th Cir. 2008) (unpublished). In addition, if Plaintiff's counsel untimely receives an award of attorney fees pursuant to 42 U.S.C. § 406(b), he must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS HEREBY ORDERED** that, by stipulation of the parties, Plaintiff is awarded attorney fees in the amount of \$5,135.50.

**IT IS SO ORDERED** this 4<sup>th</sup> day of November, 2016.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE